

In the Matter of: )  
)  
Application for Certification ) Docket No. 09-AFC-6  
for the Blythe Solar Power )  
Project, Palo Verde Solar, LLC )  
\_\_\_\_\_ )

EHLERT BUSINESS GROUP (916) 851-5976

APPEARANCES

COMMITTEE MEMBERS

Karen Douglas, Presiding Member

HEARING OFFICERS, ADVISERS

Raoul Renaud, Hearing Officer

Eileen Allen, adviser to Commissioner Robert Weisenmiller

STAFF

Lisa De Carlo, Senior Staff Counsel

Beverly Bastian

Mark Hesters

Alan Solomon

APPLICANT

GALATI BLEK

BY: SCOTT GALATI, ESQ.

455 Capitol Mall

Suite 350

Sacramento, CA 95814

SOLAR MILLENNIUM, LLC

BY: ALICE HARRON, SENIOR DIRECTOR

1625 Shattuck Ave

Suite 270

Berkeley, CA 94709

INTERVENOR: CURE

ADAMS BROADWELL JOSEPH & CARDOZO

BY: ELIZABETH KLEBANER, ESQ.

601 Gateway Blvd

Suite 1000

San Francisco, CA 94080

ALSO PRESENT

Dr. Alvin Greenberg(via teleconference)

INDEX

	PAGE
Opening remarks by Presiding Member Douglas	1
Opening remarks by Hearing Officer Renaud	2
Topics in Agreement	4
Topics in Dispute	23
Closing remarks by Hearing Officer Renaud	86
Closing remarks by Presiding Member Douglas	86
Adjournment	87
Reporter's Certificate	88

1 PROCEEDINGS

2 PRESIDING MEMBER DOUGLAS: Good afternoon.

3 Welcome, everybody, to the prehearing conference  
4 for the Blythe Solar Power Project.

5 I'm Karen Douglas. I'm the -- I don't remember,  
6 the Presiding Member?

7 HEARING OFFICER RENAUD: Yes.

8 PRESIDING MEMBER DOUGLAS: Commissioner  
9 Weisenmiller we are on the Blythe and Palen projects.  
10 He's Presiding in one and associate in the other, and so I  
11 occasionally mix that one up. I'm the Presiding Member of  
12 this Committee. Commissioner Weisenmiller's adviser is to  
13 my far left, Eileen Allen. And to my immediate left is  
14 our Hearing Officer Raoul Renaud.

15 Let's just do introductions to start maybe  
16 beginning with the applicant.

17 MR. GALATI: Scott Galati representing Solar  
18 Millennium.

19 MS. HARRON: Alice Harron, Solar Millennium.

20 SENIOR STAFF COUNSEL De CARLO: Lisa De Carlo,  
21 Energy Commission Staff Counsel. And on the phone is Alan  
22 Solomon, Energy Commission Project Manager for this case.  
23 And we have some technical staff, both on the phone and in  
24 the audience in case the Committee has detailed questions  
25 in particular technical areas.

1           PRESIDING MEMBER DOUGLAS: Thank you. And CURE?

2           MS. KLEBANER: Elizabeth Klebaner representing  
3 California Unions for Reliable Energy.

4           PRESIDING MEMBER DOUGLAS: Thank you very much.  
5 Hearing Officer Renaud?

6           HEARING OFFICER RENAUD: Thank you very much.

7           Well, let's get started with this prehearing  
8 conference. As you know, we've scheduled an evidentiary  
9 hearing in this matter to take place on July 15th and  
10 continuing to July 16th if we need that second day.

11           In advance of this hearing, the Committee issued  
12 a notice and order asking that each of the parties provide  
13 a prehearing conference statement. And we have received  
14 those. They were all timely filed. And I thank you for  
15 those. And I also thank you for the organization and  
16 thought and effort that went into those. They're very  
17 helpful to the Committee to have your thoughts and your  
18 exhibits and your presentations so well organized for us.  
19 We really do appreciate that.

20           Since those were -- those just came in yesterday,  
21 we've been sort of buried under a large snow storm of  
22 paper trying to sort that out. But I think we've got it  
23 down to at least a manageable level of chaos.

24           What we hope to do today is to set the stage for  
25 the evidentiary hearing. At the evidentiary hearing, the

1 Committee will hear testimony under oath regarding each of  
2 the topic areas that would eventually make up the  
3 Commission decision. Some of that testimony will be  
4 submitted in writing. Other testimony will be -- will  
5 come in orally. And the parties will, of course, have an  
6 opportunity to rebut any of that testimony and to  
7 cross-examine those witnesses who testify live.

8           Part of your assignment in preparing the  
9 prehearing conference statement was to give the Committee  
10 an idea of which topic areas are undisputed, which topic  
11 areas are ready for hearing, and which topic areas are  
12 either not ready for hearing or, in other -- in some other  
13 respect won't be able to go forward on July 15th. And  
14 again, each of you answered that in very helpful fashion,  
15 with one possible exception.

16           And I'm going to ask Ms. De Carlo a question, not  
17 to put you on the spot or anything.

18           SENIOR STAFF COUNSEL De CARLO: Of course not.

19           HEARING OFFICER RENAUD: But your answer to  
20 question A, the topic areas that are complete and ready to  
21 proceed to evidentiary hearings. Your first sentence is,  
22 "All topic areas are or will be complete". Does that mean  
23 they will be complete by July 15th or they will be some  
24 time?

25           SENIOR STAFF COUNSEL De CARLO: They will be by

1 July 15th. We anticipate -- well, for the issues  
2 identified in the prehearing conference statement, we will  
3 have a supplemental Staff Assessment by July 7th, no later  
4 than, that will include cultural resources, the aviation  
5 analysis.

6 The one caveat to that is we still will not  
7 have -- we probably will not have the Phase 2 Study for  
8 TSE by then. So that issue may be outstanding. And I  
9 failed to note that in the prehearing conference  
10 statement.

11 But all other items will be ready to go.

12 HEARING OFFICER RENAUD: All right, good. And  
13 we'll get into more depth with respect to each of those  
14 topics as we proceed.

15 What I did is take each of your prehearing  
16 conference statements and look for common ground. What  
17 I'd like to do initially is determine which topics  
18 everybody is in agreement can simply be entered into the  
19 record on the basis of written testimony and declaration.

20 And I came up with a list of six. Again, just  
21 comparing your three statements. And the six I came up  
22 with were facility design, geological paleontological  
23 resources, powerplant efficiency, socioeconomic resources,  
24 noise and vibration, and powerplant reliability.

25 Does anybody have a concern that those are not

1 ready for entry into the record -- or will not be ready  
2 for entry into the record by stipulation on July 15th.

3 Mr. Galati.

4 MR. GALATI: With respect to socioeconomic  
5 resources, I wanted to make sure that the Committee is  
6 aware that the staff assessment did not have a  
7 socioeconomic resources section in it. So the staff's  
8 opinion on socioeconomic resources is out.

9 What we proposed was that you can rely on the AFC  
10 and the earlier analysis that was done in the Preliminary  
11 Staff Assessment. So if socioeconomic resources is going  
12 to change, I don't think that I am prepared to say that  
13 we're ready to go on declaration, unless the Committee is  
14 ready to go without staff's analysis.

15 HEARING OFFICER RENAUD: All right. Would you  
16 respond to that Ms. De Carlo?

17 SENIOR STAFF COUNSEL De CARLO: Yeah. Well,  
18 we'll be providing socioeconomics in the July 7th filing  
19 as well. I don't know what the conclusions there will be,  
20 whether or not it will be a modification to what we  
21 previously concluded in the supplemental -- or in the  
22 Staff Assessment

23 HEARING OFFICER RENAUD: Why was it not included  
24 in the rebut?

25 SENIOR STAFF COUNSEL De CARLO: There were some



1 concerns that it may not have completely analyzed certain  
2 impacts. And so someone from management requested that it  
3 be removed for further analysis.

4 HEARING OFFICER RENAUD: Okay. So we'll have to  
5 take that one off the list.

6 Ms. Klebaner, do you have a response on  
7 socioeconomics.

8 MS. KLEBANER: Thank you. I apologize, I forgot  
9 to include that section in my preparing conference  
10 statement. But I would agree with Mr. Galati that if  
11 there are any changes, and it sounds like there might be,  
12 we cannot stipulate to entering it in by declaration at  
13 this time.

14 HEARING OFFICER RENAUD: All right. My  
15 understanding of the difference we can look forward to on  
16 socio is that there may be a revised section on the  
17 cumulative analysis part. Do you have any knowledge about  
18 that?

19 SENIOR STAFF COUNSEL De CARLO: That's my  
20 understand as well.

21 HEARING OFFICER RENAUD: Okay. And, Mr. Solomon,  
22 I know you're on the phone. First, let me check, can you  
23 hear us?

24 PROJECT MANAGER SOLOMON: I can.

25 HEARING OFFICER RENAUD: Good.

1 PROJECT MANAGER SOLOMON: That is correct. What  
2 is being looked at right now is the cumulative section,  
3 specifically, looking towards the impacts among others to  
4 the schools.

5 HEARING OFFICER RENAUD: All right.

6 PROJECT MANAGER SOLOMON: Keep in mind there are  
7 a number of I-10 projects that may affect the City of  
8 Blythe.

9 HEARING OFFICER RENAUD: All right. Okay.

10 Well, we'll look forward to receipt of that  
11 section in the revised. I think, it would be very helpful  
12 to the parties, if this -- if it would be possible, when  
13 that is issued, to somehow flag or mark the changes,  
14 because that way it can be scanned through and parties can  
15 determine whether or not, you know, the supplemental  
16 analysis warrants a full, you know, revisitation or are  
17 there simply changes to certain parts that could be  
18 reviewed quickly.

19 SENIOR STAFF COUNSEL De CARLO: Yeah, it  
20 shouldn't be a problem to be able to provide that in track  
21 changes comparing the original Staff Assessment version  
22 with the new version.

23 HEARING OFFICER RENAUD: Great. Okay, good.  
24 Thank you.

25 All right. I guess, I'm causing a little

1 feedback there. Can you still hear me?

2 MR. GALATI: Um-hmm.

3 HEARING OFFICER RENAUD: The second category is,  
4 again, I gleaned this from your statements, and it's  
5 possible I've got one -- I've got some of them misplaced  
6 here, as I obviously did in the socioeconomic resources.

7 But these look to me like the areas that the  
8 parties are prepared to go to hearing on. There are  
9 disputes, some minor, some major. But parties feel  
10 comfortable that they've got the evidence they need and  
11 ready to go. And obviously, then, would leave the job of  
12 weighing the evidence to the Committee, which is what the  
13 Committee is here for.

14 And maybe rather than list these, we'll just go  
15 through them one by one. Let me start with alternatives.  
16 Does everybody agree that they're ready to go. You don't  
17 have to be in agreement amongst yourselves. But do you  
18 agree that you are ready to make your presentations?

19 All right. My understanding is that basically  
20 what we're looking at there is a dispute between applicant  
21 and staff over the project objectives.

22 MR. GALATI: Yeah. And again, if you notice, we  
23 believe that we're prepared to go and even submit on  
24 declaration on that point. We've written the testimony.  
25 We don't see a need for live witness testimony. So I

1 don't know if you're going to cover that later, or you  
2 want to cover it in each section, because I notice CURE's  
3 said that they wanted time for cross-examination. I'd  
4 like to know if that's for applicant witness or for staff  
5 witness.

6 HEARING OFFICER RENAUD: Well, let's get the  
7 answer to that.

8 MS. KLEBANER: It would be a combined estimate of  
9 10 minutes for both.

10 MR. GALATI: You will require a live witness for  
11 the applicant?

12 MS. KLEBANER: Yes.

13 SENIOR STAFF COUNSEL De CARLO: And for staff?

14 MS. KLEBANER: Yes.

15 HEARING OFFICER RENAUD: Would that be on the  
16 project objectives issue or something else?

17 MS. KLEBANER: Broadly on the section of  
18 alternatives.

19 HEARING OFFICER RENAUD: Just generally?

20 MS. KLEBANER: Yeah.

21 HEARING OFFICER RENAUD: All right good. With  
22 respect to the project objectives statement, that sounds  
23 to me like something that, you know, I would hope perhaps  
24 could be worked out. And I don't know what kind of a  
25 forum your party might want to come up with, in which to

1 do that. But if you possibly could, that would be -- you  
2 know, these kinds of things can really help streamline our  
3 process.

4 MR. GALATI: This is the exact comment we made on  
5 the staff assessment. So staff has read that comment. We  
6 didn't have any discussion, and apparently it was  
7 rejected.

8 HEARING OFFICER RENAUD: All right, very good.  
9 Well, that's what we're here for is to hear your disputes  
10 and decide them for you.

11 Good.

12 Make sure your witnesses then are available for  
13 cross-examination.

14 Let's turn next to air quality.

15 Again, my understanding is that this is a dispute  
16 over the -- whether or not to use the federal PSD  
17 thresholds and some issues about conditions of  
18 certification.

19 Are there any other issues?

20 MR. GALATI: Not from our perspective. And  
21 again, we believe we've provided what we want and why we  
22 would want it in our declaration and testimony. We don't  
23 need to -- see the need for live witnesses on this point.

24 HEARING OFFICER RENAUD: All right.

25 SENIOR STAFF COUNSEL De CARLO: And we would just

1 like the opportunity to respond to the applicant's  
2 assertions regarding the Condition of Certification.

3 HEARING OFFICER RENAUD: Through  
4 cross-examination or just through testimony?

5 SENIOR STAFF COUNSEL De CARLO: Through direct.  
6 I believe I had listed a bit of cross as well, just as a  
7 default.

8 HEARING OFFICER RENAUD: All right. And CURE?

9 MS. KLEBANER: We prepared to waive cross, but  
10 the applicant submitted new information yesterday  
11 regarding the appropriate method to calculate VOC  
12 emissions. And the applicant apparently is referencing  
13 comments that CURE submitted at the South Coast Air  
14 Quality Management District, which is not the appropriate  
15 permitting authority here.

16 But at any rate, we would like an opportunity to  
17 respond to that. We can do it in written testimony.

18 HEARING OFFICER RENAUD: Is this with respect to  
19 the HTF?

20 MR. GALATI: We've had opening testimony, and we  
21 had rebuttal testimony. And we've referred to, in our  
22 opening testimony and in workshops, if CURE had  
23 participated in those workshops, we had talked a lot about  
24 how to calculate the HTF fluid. And we responded to a  
25 comment on the South Coast -- CURE comment letter on the

1 South Coast on how it was inappropriate for them to use.

2           So what you see docketed is what we provided to  
3 the South Coast on the Palen project, which is directly  
4 relevant to. So we object to any additional testimony  
5 that CURE may like to bring. We'll bring our witness and  
6 they can cross-examine them.

7           HEARING OFFICER RENAUD: Sounds fair enough.

8           MS. KLEBANER: Okay.

9           HEARING OFFICER RENAUD: Is that all right with  
10 you?

11          MS. KLEBANER: Yeah.

12          HEARING OFFICER RENAUD: Again, we will limit  
13 cross to the scope of the direct that's standard  
14 procedure. So we will ask that you limit your  
15 cross-examination to what the witness testified to.

16          MS. KLEBANER: We didn't submit opening testimony  
17 on that issue, and Mr. Galati -- excuse me, counsel for  
18 applicant filed this new information after rebuttal  
19 testimony was due, so we didn't have an opportunity to  
20 raise these issues pursuant to the order.

21          MR. GALATI: The issue of HTF -- the issue of how  
22 you calculate emissions has been squarely before this  
23 Commission and CURE from the very beginning of this case.  
24 They chose not to file opening testimony on how it should  
25 be calculated. They filed the comment letter on the Palen

1 project, so they could have attached that and put it as  
2 opening testimony.

3 The idea that every time something is docketed or  
4 filed raises a new issue that reopens testimony is  
5 something that I'd object to and at some point it stops.

6 This is an issue that they are very well aware  
7 of. They raised it.

8 MS. KLEBANER: May I respond?

9 HEARING OFFICER RENAUD: I must say this is  
10 something I've seen before. And that is somewhat of a  
11 blending, blurring of the distinction between what is  
12 opening testimony and what is rebuttal testimony.

13 Opening testimony, as you all know, is your  
14 affirmative case. If you're responding to something --  
15 some testimony that someone else said, that's your  
16 rebuttal.

17 It sounds to me like what you're talking about  
18 for CURE is rebuttal on the issue. And I don't think  
19 anybody has a problem with that, with your doing it in  
20 rebuttal, all right?

21 MS. KLEBANER: Okay.

22 HEARING OFFICER RENAUD: All right.

23 MS. KLEBANER: Thank you.

24 HEARING OFFICER RENAUD: Let's turn next to  
25 hazardous materials management. Again, what I have been



1 made aware of is a modification to the list of hazardous  
2 materials. Is there anything beyond that for this issue  
3 in this area?

4 SENIOR STAFF COUNSEL De CARLO: No. And staff,  
5 in our rebuttal testimony, has provided an alternative  
6 approach for that table. And if the applicant agrees to  
7 it, then we're fine with dispensing with testimony -- or  
8 live testimony on that issue.

9 HEARING OFFICER RENAUD: We'll look forward to  
10 hopefully that issue disappearing between now and July  
11 15th.

12 All right, transmission line safety and nuisance.

13 Again, as far as I've been able to glean, the  
14 issue there is about the EMF guidelines. And staff are  
15 you -- staff is disputing that which EMF guidelines to use  
16 for transmission line safety and nuisance.

17 SENIOR STAFF COUNSEL De CARLO: No, I believe we  
18 accepted the applicant's proposed change to the Condition  
19 of Certification.

20 HEARING OFFICER RENAUD: All right. So we can  
21 move that one up to the first group, right?

22 MR. GALATI: Yeah, that's correct.

23 HEARING OFFICER RENAUD: All right, great.

24 All right, project description.

25 Applicant has characterized it as a minor issue.

1 Can you describe it for us briefly.

2 MR. GALATI: It's just basically there are some  
3 things that were inconsistent that we wanted to make sure  
4 that the Committee was aware of when it wrote its PMPD,  
5 some numbers.

6 So what we did is, when we went through the  
7 revised staff assessment, everywhere where we saw a number  
8 that we put incorrect or the pole height wasn't correct,  
9 we put those all in one locations. So we can submit that  
10 on declaration. That's our changes to the project  
11 description.

12 HEARING OFFICER RENAUD: It doesn't sound like  
13 something that needs airing in an evidentiary hearing?

14 SENIOR STAFF COUNSEL De CARLO: No. We agree  
15 with the applicant's changes. And generally, we don't  
16 submit project description as a technical area.

17 (Thereupon a voice came over the  
18 speaker phone.)

19 HEARING OFFICER RENAUD: Thank you.

20 Folks who are on the phone, we're in a hearing  
21 here. If you want to mute your phones if you -- when  
22 you're conversing, that would be much appreciated.  
23 Otherwise, we'll be listening in on your conversations.

24 Thank you.

25 All right.

1           (Thereupon a voice came over the  
2           speaker phone

3           MR. GALATI:  Hey, Ken.  Ken Waxlax, this is Scott  
4 Galati, can you hear me?

5           Hey, Ken, you need to mute your phone, because  
6 we're hearing your deal.

7           (Laughter.)

8           MR. WAXLAX:  I'm sorry.

9           MR. GALATI:  Okay.  We're in the middle of a  
10 hearing, so if you'd mute it please, thanks.

11          HEARING OFFICER RENAUD:  I'm glad you recognized  
12 the voice, Mr. Galati.  That was very helpful.

13          MR. GALATI:  I did not recognize the deal though.

14          HEARING OFFICER RENAUD:  That's okay.  Our ears  
15 were closed.

16          All right.  Again, on this same list, I have  
17 public health listed as minor corrections.  Anybody wish  
18 to enlighten us on that?

19          MR. GALATI:  I actually have to go back to our  
20 testimony.  I don't actually remember that one.  It must  
21 be really minor.

22          SENIOR STAFF COUNSEL De CARLO:  I think we  
23 accepted the applicant's changes to those.  Let me just --

24          DR. GREENBERG:  Yes, we did.

25          HEARING OFFICER RENAUD:  Okay.  So we'll move

1 that one up too.

2 SENIOR STAFF COUNSEL De CARLO: Yeah, there were  
3 just slight modifications to Waste 8 and 9.

4 HEARING OFFICER RENAUD: CURE, you speak up if  
5 you have any difference with this, but I'm just assuming  
6 you don't, because you didn't say so in your statements.

7 All right, thank you.

8 Let's see. Okay, now here's the fun one, waste  
9 management. I understand at least between applicant and  
10 CURE, this is a very interesting dispute over the site's  
11 former use, or at least alleged former use, as a military  
12 training ground for World War II. And it's very  
13 interesting testimony on both sides about that.

14 The first question, in my mind, is whether that's  
15 the right topic area. I mean, waste management is usually  
16 about dealing with the waste generated by the project. We  
17 can put it there. But if you could also be, and I think  
18 CURE indicated this, a worker safety issue, should there  
19 be UXO as you called it, unexploded ordinance the site.

20 At any rate, all we need to do today is ascertain  
21 that you are both ready to proceed to hearing on this.  
22 You've got your testimony, your evidence.

23 MS. KLEBANER: CURE is ready to proceed on that  
24 issue

25 HEARING OFFICER RENAUD: Good. Good.

1 MR. GALATI: So is the applicant.

2 HEARING OFFICER RENAUD: And staff, will you be  
3 presenting testimony?

4 SENIOR STAFF COUNSEL De CARLO: Yes, we will. In  
5 our supplemental Staff Assessment we'll be addressing this  
6 issue and providing a witness.

7 MR. GALATI: I don't know if now is a good time  
8 to bring that up. But I guess I'll just jump in, if you  
9 wouldn't mind, is I object to the concept of Supplemental  
10 Staff Assessments.

11 Just taking in a whole other round of testimony,  
12 as you've seen from CURE's prehearing conference  
13 statement, is everything after the supplemental Staff  
14 Assessment going to require a new round of testimony, for  
15 30 days and delay the project.

16 With all due respect to staff, and I know that  
17 they're working pretty hard, but we all have to meet our  
18 deadlines. And there ought to be consequences if you  
19 don't.

20 And the consequences ought to be that the  
21 Committee should decide whether it is prepared to go to  
22 evidentiary hearing and conclude these issues with the  
23 evidence that's presented to it, and if staff wants to  
24 bring a witness and testify to it.

25 But I have an incredible objection to a July 7th

1 Supplemental Staff Assessment, and that any issues that  
2 have come up can then be handle in that Staff Assessment  
3 This is one of them.

4 HEARING OFFICER RENAUD: Yeah, I think it comes  
5 out to really a matter of how much is going to be changed  
6 in that Supplemental Staff Assessment. With respect to  
7 this particular issue, I don't see any indication that  
8 there was a change between the Staff Assessment and the  
9 revised Staff Assessment with respect to this question.  
10 And so I'm not sure what we should be looking forward to  
11 in the supplement.

12 SENIOR STAFF COUNSEL De CARLO: Well, this was  
13 simply to respond to CURE's testimony in this area. And  
14 we figured since we were already coming out with a  
15 supplement, we might as well fold in our responses to CURE  
16 in that supplement.

17 Now, if the Committee would prefer, we could  
18 issue the -- our rebuttal testimony in this area earlier  
19 in a separate document.

20 HEARING OFFICER RENAUD: That's what I was going  
21 to suggest. I mean, CURE submitted your opening  
22 testimony, Hagemann testimony -- well, I don't have the  
23 date in front of me. I believe -- I know it was timely.

24 MS. KLEBANER: On the 11th.

25 HEARING OFFICER RENAUD: Was it the 11th. So I

1 would have expected that to be the subject of rebuttal  
2 testimony. Do you see -- do you want to come up with  
3 rebuttal testimony in this area?

4 SENIOR STAFF COUNSEL De CARLO: Yes, we do. And  
5 if we could have leave from the Committee to file it late.  
6 I understand that there was a deadline established.  
7 Unfortunately, staff is extremely stretched thin. And  
8 once work on Blythe stopped, they quickly proceeded to  
9 move on to other projects. So trying to get them back on  
10 to Blythe has been a little bit difficult.

11 But if you want to establish a deadline for  
12 rebuttal testimony in this area for staff to comply with,  
13 we have our witness here on the phone. Alvin, do you want  
14 to provide a date when you -- when you think you can pull  
15 together rebuttal testimony in this area?

16 DR. GREENBERG: I mean, I was told by June 24th.  
17 And please let everybody know that I just got assigned  
18 this two days ago.

19 HEARING OFFICER RENAUD: Well, June 24th is in a  
20 week, which will be next Thursday. I mean that sounds  
21 manageable to me, but I'm up here and you're down there in  
22 the trenches.

23 MR. GALATI: I have no objection, as long as I  
24 don't hear that CURE will use this as an additional reason  
25 to delay the hearing on that subject matter or that

1 because staff has filed testimony, there's another round  
2 of testimony. So other than that, I stipulate to that.

3 HEARING OFFICER RENAUD: The understanding is  
4 that this is rebuttal. And basically the way we go here  
5 is you submit opening and you submit rebuttal and that's  
6 it. So this would be rebuttal.

7 MS. KLEBANER: That sounds fine. We don't want  
8 to throw off the applicant's schedule. So we will accept  
9 that and we will not file a rebuttal to staff's rebuttal.

10 HEARING OFFICER RENAUD: Thank you. Good.

11 MR. GALATI: Can we take that last quote and let  
12 me use it a whole bunch of times today.

13 (Laughter.)

14 MS. KLEBANER: Have a copy of the transcript.

15 MR. GALATI: Okay, great.

16 HEARING OFFICER RENAUD: Good. Well, and I, for  
17 one, am very much looking forward to the testimony on this  
18 subject. As a student of World War II history, I'm  
19 fascinated by it.

20 All right. I think that takes care of the middle  
21 group, the ones which, from my -- looked to my like they  
22 were ready to go. And what I'm very pleased to see is  
23 that we actually moved what two or three of these from  
24 that category to the -- did I cover worker safety.

25 Yeah. Well, thank you. Worker safety. Again,



1 there's somewhat of a blending here on the former issue,  
2 but apparently there is an additional issue over  
3 conditions of certification.

4 Is that something you can summarize for us, one  
5 of you?

6 MR. GALATI: Yeah, I think that --

7 HEARING OFFICER RENAUD: It's about the fire  
8 safety, isn't it?

9 MR. GALATI: We proposed an alternate way to look  
10 at fire safety in the condition. We've read staff's  
11 rebuttal testimony too. And quite frankly, there's, I  
12 think, good points on all sides. I think the primary  
13 issue for us is that it has been very difficult. And I  
14 know staff has struggled as well to get your arms around  
15 with Riverside County Fire Department what the actual  
16 impacts are and how should they be mitigated from a  
17 cumulative perspective.

18 And so we proposed an alternative way to do it.  
19 Staff has filed rebuttal testimony of why that's not  
20 acceptable. I think we're ready to go to evidentiary  
21 hearing on the point and let the Committee decide. I'd be  
22 more than happy to continue the conversations with staff  
23 on that point.

24 But it's a pretty difficult one, but I think all  
25 the I-10 corridor projects -- actually all the Riverside

1 County projects are struggling with them. We recognize  
2 it's a difficult issue.

3 HEARING OFFICER RENAUD: And it does involve the  
4 local fire department jurisdiction, which is something we  
5 see fairly often in these cases.

6 SENIOR STAFF COUNSEL De CARLO: Yes.

7 HEARING OFFICER RENAUD: But we'll continue to  
8 try and narrow it down, but we'll -- otherwise, we'll hear  
9 from you both on the 15th. CURE is not going to get  
10 involved in that one, right?

11 MS. KLEBANER: No.

12 HEARING OFFICER RENAUD: All right. Thank you.

13 Okay. Now, we have a group, which I wasn't quite  
14 sure how to characterize. To some -- there's a blending  
15 of substantive disputes as well as disputes over whether  
16 or not the parties are ready to proceed. Now, Mr. Galati,  
17 takes the position that the applicant is ready to proceed  
18 on everything. And that's good. Very optimistic. But  
19 part of taking that position involves making use of  
20 material from the Staff Analysis, the older Staff Analysis  
21 as the staff testimony, rather than using the Revised  
22 Staff Analysis as the staff testimony.

23 And, in particular, when I look at my list here,  
24 I'm thinking of cultural resources, and I guess  
25 socioeconomic resources would also be -- that's one that

1 was not included in the Revised Staff Analysis.

2 Let me see if I can pick out the ones that are  
3 the simplest and we'll try and get those cleared off our  
4 plate here.

5 Traffic and transportation really involves the  
6 airport questions, right?

7 SENIOR STAFF COUNSEL De CARLO: (Nods head.)

8 HEARING OFFICER RENAUD: All right. Apparently  
9 all three of you are -- well, staff and applicant -- staff  
10 and CURE both are of the position that we're really not  
11 ready to go on those -- on that one, is that correct, Ms.  
12 De Carlo?

13 SENIOR STAFF COUNSEL De CARLO: Well, we'll be  
14 ready come July 15th. Again, aviation will be included in  
15 our July 7th supplement.

16 HEARING OFFICER RENAUD: And is there information  
17 still coming in about that? I've noticed some  
18 correspondence coming in to report.

19 SENIOR STAFF COUNSEL De CARLO: Right. There was  
20 a recent change to the transmission line route. That  
21 brings it a little further away from the airport and  
22 outside of a particular zone. So staff is analyzing that.

23 HEARING OFFICER RENAUD: Okay. And applicant's  
24 position?

25 MR. GALATI: Put a little different color on

1 that, okay. We moved that line at the request of staff  
2 and the Airport Land-Use Commission. And it was disclosed  
3 that we would do that at a workshop. And then we met with  
4 the Airport Land-Use Commission to make sure that when we  
5 did move the line, it was exactly where they wanted it.

6           So the idea that there's a bunch of other  
7 analysis that needs to be done to accommodate that, I  
8 think, certainly was done in response to issues that,  
9 quite frankly, we don't think existed, but in a spirit of  
10 cooperation did that.

11           In addition, the issue of the upward plume and it  
12 affecting the airport has been -- it was identified by  
13 staff and modeling done in the Staff Assessment in March.

14           So the idea that we are still trying to hire  
15 aviation consultants and doing additional analysis will  
16 not come out until the 7th, thereby depriving the parties  
17 of the ability to look at what that analysis might be  
18 before we go to evidentiary hearing is something we object  
19 to.

20           We believe we're ready to go. We have also  
21 since, and docketed in our testimony, conducted an  
22 over-flight of a similar project with the Airport Land-Use  
23 Commission. We have submitted information in our opening  
24 testimony to show that during a landing at the Blythe  
25 Airport nobody flies over this.

1           So all of these issues -- here's what's happened  
2 is staff raised the issue with the Airport Land-Use  
3 Commission, who has no jurisdiction. They'll be the first  
4 to tell you, they don't have to take a vote. They don't  
5 have to make any sort of land-use decision here.

6           But staff raised the issue that we might affect  
7 the airport operations. And so the Airport Land-Use  
8 Commission held off on voting until they would get the  
9 staff report. So the staff report says we have to wait  
10 for the Airport Land-Use Commission, and the Airport  
11 Land-Use Commission says we have to wait for the staff  
12 report.

13           And so at the last workshop, we were going to get  
14 this aviation consultant. In fact, we were going to do a  
15 joint flight. We invited the parties to go do a joint  
16 flight. All of these issues were going to be resolved.  
17 And here we are in the exact same point that we were in  
18 the April timeframe -- April and May timeframe, where the  
19 Airport Land-Use Commission at its last hearing said the  
20 staff report didn't address the issues that they said it  
21 was going to be, so we're not going to take a vote till  
22 there's a staff report.

23           And now we have the revised Staff Assessment that  
24 says you're inconclusive in these areas because the  
25 Airport Land-Use Commission hasn't weighed in. At some

1 point in time, you have to say stop. I'm asking you to  
2 please do that today. We are ready to go to evidentiary  
3 hearing. We have a complete modeling analysis. So does  
4 staff in their revised Staff Assessment and in their early  
5 Staff Assessment They want to testify that this interferes  
6 with the airport operations and it is a significant  
7 impact, and therefore does not comply with the airport  
8 land-use plan. That's what they've said before. Let's go  
9 to hearing and let the Committee decide.

10 But the idea that additional analysis is  
11 required. No new information has been submitted from us  
12 that would require that new analysis. And let's cut it  
13 off. Let's go.

14 HEARING OFFICER RENAUD: CURE, yes, please.

15 MS. KLEBANER: I respectfully disagree. As a  
16 matter of fact, Mr. Galati filed new information on this  
17 topic yesterday. There are more issues than just those  
18 listed by Mr. Galati. In addition to the thermal plume  
19 issues. There's also a question of public space,  
20 compliance with the plan of 2004 Airport Plan, as well as  
21 the evaporation pond issues, which has been -- which is  
22 mentioned in the Revised Staff Analysis, but not  
23 completely analyzed. Staff indicates in the Revised Staff  
24 Assessment that it will hire an additional consultant to  
25 look at that issue.

1           So there are more issues than just movement of  
2 the transmission line, which admittedly the applicant has  
3 done, that have yet to be fully analyzed.

4           And I would also like to remind the Committee  
5 that if new information is added -- significant new  
6 information is added to the Revised Staff Assessment, it  
7 should be recirculated for public comment, and 30 days  
8 should be allowed for that review.

9           CURE would like an opportunity to review that new  
10 analysis, and submit testimony on that issue -- or have an  
11 opportunity to evaluate whether to submit testimony on  
12 that issue.

13           HEARING OFFICER RENAUD: Let me ask you a  
14 question about CURE's position here. One thing in your  
15 statements is that the Airport Land-Use Commission is  
16 going to be hearing the consistency determination matter  
17 on July 6th, and we need to wait for that. Why would we  
18 need to wait for that?

19           MS. KLEBANER: Well, there is one reason that --  
20 other than the fact that staff has indicated that they  
21 would like to wait for that analysis, and that's in Title  
22 20. Regulation 1742 requires staff to consult with other  
23 agencies with special expertise or interest in safety and  
24 reliability matters.

25           HEARING OFFICER RENAUD: All right. Well, Mr.

1 Galati, go ahead.

2 MR. GALATI: Yeah. I just wanted to address the  
3 issue of new information. We all filed new information on  
4 the 11th, because that's when testimony was due, so  
5 exhibits were filed as well. We all filed new information  
6 yesterday, because that's when testimony and exhibits  
7 were.

8 The information that we're talking about is --  
9 it's easy to say you filed new information. We didn't  
10 file the project changes. The project changes were filed  
11 before this. What we filed were things that should be in  
12 the record, upon which our experts are going to point to  
13 to handle the dispute.

14 So, for example, just to be clear, we made  
15 comments to the Airport Land-Use Commission about why we  
16 think we're consistent with their plan. Our expert  
17 testimony lays those forth of why we think we are. We  
18 docketed as exhibits those particular correspondence.  
19 That's not new information that every time somebody  
20 docketed everything, that it reopens and requires --  
21 because we all filed new information yesterday. CURE just  
22 handed me a list of exhibits with a CD. And I handed CURE  
23 a CD of exhibits. I haven't seen any of these exhibits  
24 yet. So there's probably new information on those  
25 exhibits. That's how it works.



1           So I want to make it absolutely clear that the  
2 project changes that we proposed were first proposed in  
3 our comments on the Staff Assessment, which I believe  
4 those comments were docketed in April. We then made a  
5 change to the transmission line, of which we docketed  
6 preliminary results of that, I believe, in the May  
7 timeframe.

8           So the idea that things -- the evaporation ponds  
9 were discussed at the workshops. So we need to separate  
10 the concept of project changes as new information that  
11 requires more time to analyze versus new information about  
12 the projects or information in response to questions.

13           If the Airport Land-Use Commission asks us  
14 tomorrow to address a question, we're going to write them  
15 an answer and we're going to docket that information so  
16 everybody has it. That shouldn't require reopening of the  
17 record, so to speak.

18           But we docketed everything, so it could be in the  
19 evidentiary record for the purposes of identifying all of  
20 our exhibits and making our exhibit boxes.

21           So I went through the record and everything that  
22 I thought we might need that we had done in the past, we  
23 docketed.

24           HEARING OFFICER RENAUD: And your response.

25           SENIOR STAFF COUNSEL De CARLO: In terms of

1 staff's testimony that we're not reopening the record at  
2 this point. We clearly indicated in the filing of our RSA  
3 that we would need a little bit more time to file our  
4 testimony, our analysis on the aviation issues.

5           We're not in the process of hiring consultants.  
6 We've already done that. They're providing us with their  
7 draft report in a couple of days. We're going to review  
8 it. Make sure it's up to par, and then submit it in our  
9 supplemental Staff Assessment. So this is -- the parties  
10 have been aware of this ever since the RSA was filed.

11           Unfortunately, we had hoped to be able to submit  
12 our supplemental a little bit sooner, but given staff  
13 workload and the issues that are coming up, July 7th is  
14 the best that we can do at this point.

15           And in terms of waiting for the Airport Land-Use  
16 Commission, I don't think it's our position, at this time,  
17 that we absolutely need their input in order to reach a  
18 conclusion on these issues. Traditionally, we always  
19 invite them to weigh in on issues such as these. But  
20 given the timeframes, I don't know that it can be argued  
21 that their input is absolutely required in order for the  
22 Commission to reach a decision on its own.

23           HEARING OFFICER RENAUD: All right. What we've  
24 been trying to do with these evidentiary hearings is get  
25 as much into the record as we can at any given session

1 that we're holding.

2 We might not create a complete record on a topic.

3 And it sounds to me like this maybe one of those topics.

4 May I suggest that applicant be ready to put on your

5 affirmative case on this topic on July 15th. Other

6 parties be prepared to cross-examine and present any

7 rebuttal that you then have. To the extent that new or

8 additional information comes up later, we'll have to

9 address that in a subsequent session, but at least we'll

10 have a good bit of it into the record, and we'll be able

11 to have that out of our way and be able to focus on the

12 additional material.

13 Mr. Galati, you know, I think you've got to

14 understand that while you're making some points that

15 basically there is an awful lot of information already and

16 should be enough for the Committee to make a decision, the

17 fact is that we are loathe to exclude relevant

18 information, as long as it's not blatantly late or

19 prejudicial. And the idea here is to have a full and fair

20 and open proceeding. So I'm trying to kind of walk the

21 line here. On the one hand balance the desire for

22 expeditiousness with the desire for thoroughness. And so

23 I think maybe that will -- that's not perfect -- a perfect

24 solution, but it's something.

25 MR. GALATI: We would ask you to wait and hear

1 our evidence before you were to act on CURE's request for  
2 an automatic decision today, that we need to be having  
3 additional hearings, new Staff Assessments circulated for  
4 30 days, all of that. Because what we care about, at this  
5 stage, and I think that Commissioner Douglas is probably  
6 tired of hearing it, is schedule, schedule, schedule. And  
7 we are at a situation where if the Staff Assessment were  
8 complete on June 4th, we would not be having this  
9 conversation.

10 And now that it is not complete, until what I'm  
11 hearing, till July 7th, that has delayed our schedule  
12 significantly. And so anything we can do to not delay the  
13 schedule because of the Revised Staff Assessment not being  
14 complete, is what we're after.

15 SENIOR STAFF COUNSEL De CARLO: And staff's  
16 position is that preventing us from filing testimony is  
17 not a good avenue for ensuring a speedy and legally  
18 justifiable decision. We believe even if testimony has to  
19 be received late, it is better than not receiving it at  
20 all, and in full compliance with CEQA. We don't believe  
21 that the issuance of testimony on July 7th would require  
22 recirculation under the procedural requirements of CEQA.

23 MS. KLEBANER: May I respond to that?

24 HEARING OFFICER RENAUD: Yes.

25 MS. KLEBANER: Under CEQA, when significant new

1 information is added to a Draft Environmental Impact  
2 Statement, that impact statement has to be recirculated  
3 for public comment. Until we know what the evidence is  
4 and whether it's significant, it's impossible to say  
5 whether circulation is not required. So we would like to  
6 reserve the right to raise this issue again.

7 MR. GALATI: CEQA is not controlling. What is  
8 controlling is your regulations. And, in fact, if you  
9 wanted to make an association between CEQA, you're PMPD is  
10 the draft document. That's the only document that  
11 matters. The Energy Commission staff document is not an  
12 equivalent of an EIS or an EIR in draft or anyways. The  
13 recommendation, what you write, and that is circulated for  
14 30 days, and then you make a final decision.

15 Again, what's controlling is the regulations.  
16 And you would need to make an order that allowed us to go  
17 to evidentiary hearing, because you have a regulation that  
18 says you can't go to evidentiary hearing till 14 days  
19 after a Staff Assessment. So it would need a Commissioner  
20 Presiding Member to waive that rule and not hold us to  
21 that rule, because July 7th and the 15th doesn't work.

22 SENIOR STAFF COUNSEL De CARLO: And actually to  
23 clarify that, the rule doesn't -- it establishes 14 days  
24 or another timeframe determined by the Presiding Member.  
25 So we believe that Commissioner Douglas has that

1 authority.

2 HEARING OFFICER RENAUD: Yeah, I think everybody  
3 is making good points here. The gist of it all is  
4 fairness. And 14 days is the minimum amount of time  
5 between the issuance of the Final Staff Analysis, what we  
6 used to call the FSA and evidentiary hearing. So if we  
7 take the SSA and combined with the RSA as the Final Staff  
8 Analysis, we could hold an evidentiary hearing as soon as  
9 14 days after issuance of that.

10 Let's face the question of whether or not the  
11 material in the supplemental is so overwhelmingly new as  
12 to require a greater period of analysis, as long as 30  
13 days or more. Let's face that bridge when we come to it.  
14 We're not there yet. From what I'm hearing, we may not be  
15 looking at anything that enormous, but let's reserve  
16 judgment on that.

17 MS. KLEBANER: Thank you.

18 HEARING OFFICER RENAUD: Obviously, whether or  
19 not something is a significant change is subject to some  
20 interpretation.

21 SENIOR STAFF COUNSEL De CARLO: So should staff  
22 be prepared to bring their experts on the aviation issue  
23 to the evidentiary hearings or definitely not or will be  
24 determined at a later point prior to the hearings?

25 HEARING OFFICER RENAUD: Well, in your statement,

1 you've indicated using a panel of a number of witnesses --

2 SENIOR STAFF COUNSEL De CARLO: Yes.

3 HEARING OFFICER RENAUD: -- which has not been  
4 finalized.

5 SENIOR STAFF COUNSEL De CARLO: Correct.

6 HEARING OFFICER RENAUD: And I guess I would say  
7 that to the extent you have witnesses who are confident  
8 that their testimony will be complete on July 15th, yes --

9 SENIOR STAFF COUNSEL De CARLO: Okay

10 HEARING OFFICER RENAUD: -- let's bring them,  
11 let's get them cross-examined and out of the way.

12 SENIOR STAFF COUNSEL De CARLO: Okay.

13 HEARING OFFICER RENAUD: I'm sure you will have  
14 additional witnesses whose -- and some witnesses whose  
15 testimony either they don't feel confident that it's  
16 complete yet, in which case we just might as well put them  
17 over.

18 SENIOR STAFF COUNSEL De CARLO: Okay.

19 HEARING OFFICER RENAUD: All right. Good.

20 All right. Transmission system engineering.

21 CURE has indicated this is not ready to go.

22 Is that still CURE's position?

23 MS. KLEBANER: That's correct. CURE believes  
24 that the issue is not ready to be adjudicated until a  
25 Phase 2 study has been issued and reviewed by staff and

1 incorporated into a Supplemental Staff Assessment. The  
2 Commission has always required System Impact Study. This  
3 case is unlike other cases where a System Impact Study has  
4 been made available. In this case, the phase 2  
5 interconnection study is the impact study. It is just  
6 being called a phase 2 study because it's being conducted  
7 for more than one project.

8           The applicant argues that staff need not wait  
9 because the proposed conditions of certification require  
10 applicant to execute a large generator interconnection  
11 agreement at some time in the future. That is not  
12 sufficient evidence for the Commission to make a  
13 determination on this issue.

14           Contrary to the applicant, applicant's intent to  
15 execute an agreement at some time in the future is not  
16 evidence of safety and reliability or compliance with  
17 LORS. Therefore, we believe the study has to be issued  
18 and reviewed by staff before the issue is ready for trial.

19           HEARING OFFICER RENAUD: But does CURE plan on  
20 having affirmative opening testimony on this issue?

21           MS. KLEBANER: We may once the phase 2 study is  
22 issued and we have had an opportunity to review it.

23           HEARING OFFICER RENAUD: All right. Well, I  
24 think again -- let's take as much as we can on July 15th.  
25 We clearly have opening testimony from the applicant and



1 from the staff. That testimony can be cross-examined and  
2 rebutted. CURE, once you see what's coming, if you want  
3 to submit affirmative testimony, we'll look at that.

4 Again, this is the kind of thing we'll have to  
5 wait and see what the future holds. But let's take the  
6 opportunity on July 15th to get as much into the record as  
7 we can.

8 MR. GALATI: I was not planning to bring live  
9 testimony, because we don't need live testimony. This is  
10 actually a legal issue.

11 HEARING OFFICER RENAUD: Yes.

12 MR. GALATI: And I would love to argue it. It's  
13 a legal issue of what is sufficient and whether the  
14 Committee can act. I would also ask the Committee very  
15 closely to read the Genesis Project, the Revised Staff  
16 Assessment, which relies on the exact same phase 2 site  
17 assessment, and has the conclusion that the project will  
18 comply with LORS, and does not need to wait nor be  
19 augmented.

20 And the reason that it does not need to wait and  
21 be augmented is the LORS we're talking about in  
22 transmission are not the broad safety and reliability  
23 LORS. They are a very specific tariff. And that tariff  
24 is complied with, not by doing a System Impact Study, but  
25 by entering into a large generator interconnection

1 agreement, which requires that the applicant pay for and  
2 fund all of the items in the detailed facilities study, to  
3 the extent that it's needed, before interconnection.

4           And so the real legal issue is, does the  
5 Commission need to have evidence that the project will  
6 comply with LORS or can the Commission rely on a condition  
7 that ensures that the project will demonstrate compliance  
8 with LORS, before it affects anything. And that's the  
9 bottom line.

10           You can't tell today, no matter what evidence I  
11 gave you, a System Impact Study, whether I will comply  
12 with LORS, it's the mechanism that's enforceable. And  
13 that is that enforceable mechanism is the large generator  
14 interconnection agreement. That execution shows that I am  
15 legally bound to pay for those upgrades, and there's a  
16 timing and a schedule and everything in it. And the  
17 Commission has relied on that in the past and should so  
18 here.

19           The issue is one of CEQA. You usually -- the  
20 Commission required the System Impact Study to determine  
21 whether or not enough downstream impacts were identified,  
22 so it could do a back-of-the-envelope calculation and  
23 evaluation to determine what the indirect effects are.

24           We have said from the very beginning of this  
25 entire process, you should use the phase one, because we

1 all agree that it over-estimates those impacts. And I  
2 believe that's what staff's done. And here from a LORS  
3 perspective, we urge you not to require live testimony and  
4 take time on this. We can submit briefs between now and  
5 then, and I'd be more than happy to do that, to show that  
6 this is a LORS issue only. And please read the Genesis  
7 conclusions in the TSA.

8 MS. KLEBANER: We disagree. This issue is one of  
9 fact. And we would like to point the Committee to the  
10 conclusions reached by this staff, which found that it  
11 needed -- in this proceeding, which found that it needed  
12 that study to complete its analysis.

13 HEARING OFFICER RENAUD: Do we know when that  
14 study will be coming up?

15 SENIOR STAFF COUNSEL De CARLO: Alan, are you  
16 still on the line?

17 Oh, mark is here even better.

18 PROJECT MANAGER SOLOMON: Repeat the question  
19 please.

20 SENIOR STAFF COUNSEL De CARLO: Sorry Alan, Mark  
21 is here for the phase 2 schedule.

22 MR. HESTERS: This is Mark Hesters, staff.

23 The current schedule has these things  
24 available -- the phase 2 studies available for all the  
25 transition cluster projects, I keep hearing July 2nd is

1 the day. And I assume that's when they're coming out.

2 The draft studies are supposed to be with the ISO now.

3 And the finals are supposed to be out by July 2nd.

4 HEARING OFFICER RENAUD: All right. Well, that's  
5 helpful. I mean, once that comes out, this whole thing  
6 could vanish, right? I mean, it depends on what it says.  
7 But assuming there isn't anything new or surprising, we  
8 shouldn't have an issue here.

9 MS. KLEBANER: Well, the issue is one of  
10 scheduling. I would like an opportunity to review the  
11 information, prepare opening testimony, if necessary.

12 HEARING OFFICER RENAUD: Well, from -- assuming  
13 July 2nd is correct, between then and July 15th, I think  
14 you'll have enough time to at least assess your ability to  
15 do so. If you feel that's not going to be enough time  
16 after you see the report, you let the Committee know and  
17 we'll address it.

18 MS. KLEBANER: Okay.

19 HEARING OFFICER RENAUD: Okay.

20 SENIOR STAFF COUNSEL De CARLO: I don't know if  
21 the Committee wants us to respond to Mr. Galati's comments  
22 about relying on a Condition of Certification for ensuring  
23 LORS compliance or the CEQA issue.

24 HEARING OFFICER RENAUD: It would be interesting  
25 to hear from you.

1           SENIOR STAFF COUNSEL De CARLO: In general, we  
2 prefer to have an indication, instead of solely relying on  
3 a Condition of Certification to determine -- reach a  
4 conclusive determination that the project will comply with  
5 LORS. We need something else, some indication that that's  
6 likely to occur.

7           So we would argue, in general, that solely  
8 referencing a Condition of Certification in and of itself  
9 is insufficient to conclude LORS compliance.

10          With regards to CEQA, we do believe that the  
11 phase 2 will provide us a better indication of a potential  
12 for downstream impacts. The phase 1 was grossly  
13 over-estimating the amount of transmission facilities  
14 needed. And so we don't believe that that gives us a  
15 reasonable expectation of what's likely to occur. So we  
16 really do believe the phase 2 is necessary to provide us a  
17 clear indication.

18          HEARING OFFICER RENAUD: All right, thank you.

19          Well, let's look at land-use now. It appears all  
20 three of you have some concerns about this topic. Is  
21 there anything beyond the airport?

22          I understand there's the airport issue, but  
23 there's also kind of a visual impact of the land issue  
24 here. Who wants to start on that?

25          Galati?

1           MR. GALATI: Yeah. I think the airport issue, I  
2 think, we've already discussed, and we'd be prepared to go  
3 on that. We're also prepared to go on staff came up with  
4 a cumulative significant unmitigatable impact on land-use.  
5 And from our reading of it, it has to do with loss of  
6 recreation opportunities, which has to do with, I believe,  
7 the way it's written, it certainly seems to have to do  
8 with visual.

9           So I don't know whether the best way to, if you  
10 combine these issues together, because there is also a  
11 cumulative significant unmitigatable impact in the visual  
12 section.

13           So whichever the way the Committee wants to  
14 proceed, we're prepared to go to hearing on both of those  
15 subjects.

16           HEARING OFFICER RENAUD: All right. Staff, how  
17 is this a land-use issue if it's visual?

18           SENIOR STAFF COUNSEL De CARLO: It's actually not  
19 sole limited to visual analysis. That's a component of  
20 our conclusions. Land use takes in conclusions reached in  
21 other sections that apply to land use. But we also had a  
22 different -- another conclusion with regard to loss of  
23 open space. That was our cumulative impact, just this  
24 concern that with all these solar projects potentially  
25 going in, that it's taking up a vast amount of open space.

1 And we believe that that's a potential significant impact  
2 under CEQA.

3 HEARING OFFICER RENAUD: For the topic of land  
4 use though?

5 SENIOR STAFF COUNSEL De CARLO: Yes.

6 HEARING OFFICER RENAUD: All right.

7 CURE, do you want to speak to this?

8 MS. KLEBANER: We don't have anything to add on  
9 this?

10 HEARING OFFICER RENAUD: All right. Well, is  
11 there any reason the parties aren't ready -- wouldn't be  
12 ready to go on July 15th on this?

13 SENIOR STAFF COUNSEL De CARLO: No.

14 MR. GALATI: No, we're ready.

15 HEARING OFFICER RENAUD: All right. CURE?

16 MS. KLEBANER: We're ready to go.

17 HEARING OFFICER RENAUD: Oh, good. Okay, well,  
18 then we'll move that one up to the middle group. So  
19 you'll be ready to put on your evidence and cross examine  
20 and rebut on July 15th?

21 MR. GALATI: Yes.

22 HEARING OFFICER RENAUD: Good. Visual, since  
23 we're talking about visual. Again, I don't see CURE  
24 particularly involved in this one, but applicant and staff  
25 summarizes what the problem is here on the issue.

1           MR. GALATI:  It's a cumulative -- the staff has  
2 found a cumulative, significant, unmitigatable impact and  
3 we disagree, and we're ready to go to hearing.

4           HEARING OFFICER RENAUD:  Staff?

5           SENIOR STAFF COUNSEL De CARLO:  That's pretty  
6 much it.  Yeah, just a general cumulative significant  
7 impact.

8           HEARING OFFICER RENAUD:  But you're both ready  
9 to -- would be ready on July 15th, regardless --

10          SENIOR STAFF COUNSEL De CARLO:  Yes.

11          HEARING OFFICER RENAUD:  -- of the supplemental?

12          SENIOR STAFF COUNSEL De CARLO:  Yes.

13          MR. GALATI:  Yes.

14          SENIOR STAFF COUNSEL De CARLO:  I don't believe  
15 we're anticipating filing any additional testimony on  
16 visual.

17          HEARING OFFICER RENAUD:  Great.  Okay, good.

18          MS. KLEBANER:  CURE is also ready to go on that  
19 issue.

20          HEARING OFFICER RENAUD:  Thank you.  All right.

21 And I think now we've got the three big bad ones here.

22                 We might as well start -- let's go in  
23 alphabetical order.

24                 Biological resources.

25                 The Revised Staff Assessment has lots of changes



1 throughout in this topic area. There are numerous  
2 disputes over various species of both plants and animals.  
3 It's hard to break this down into large manageable chunks.  
4 It looks like a whole lot of little chunks. Is there --  
5 first of all, let's address whether or not July 15th is a  
6 go for this topic. Is there any reason it wouldn't be,  
7 any of you?

8 MS. KLEBANER: From CURE's perspective, it's not.  
9 No party, other than the applicant, has had an opportunity  
10 to review the vast amount of information that has been  
11 submitted in the last few days. Ten new reports have been  
12 filed. Reports that staff hasn't seen nor CURE. I would  
13 also like to make a distinction between data underlying  
14 opening testimony and testimony.

15 It's the applicant's burden to produce facts,  
16 which will be evaluated by staff, and which are evaluated  
17 by the other parties. And these are new facts that CURE  
18 has not had an opportunity to review. These are facts  
19 that CURE's witnesses will be held accountable for.

20 HEARING OFFICER RENAUD: All right. Well, Mr.  
21 Galati, you filed rebuttal biological testimony on the  
22 16th.

23 MR. GALATI: Correct.

24 HEARING OFFICER RENAUD: In your filing on the  
25 11th, was there anything new?

1           MR. GALATI: Yeah. Here's what you need to  
2 understand is, we all agreed for the applicant to go out  
3 and do additional surveys. Some on the facility, but  
4 mostly to go survey alternatives at the same level of  
5 detail. And some of those surveys had to wait till  
6 certain times of the year.

7           The preliminary results of those surveys, so all  
8 the data for those surveys was docketed on May 14th. As  
9 the biologists want to do, they have prepared and taken  
10 that data and augmented and amended the biological  
11 resources technical report, which was appended to the AFC  
12 with the first set of data.

13          All of this information, we believe, was  
14 available in the preliminary results. And, in fact, staff  
15 used some of that information for conclusions. So, yes,  
16 there are additional reports that have been filed, but we  
17 don't believe that those are additional reports that  
18 change the ability to evaluate the project.

19          So that is our position. And the idea that we  
20 have held a bunch of information back and submitted it all  
21 in one day is just not accurate. I put that date as the  
22 cutoff date, because then it could be identified as an  
23 exhibit, and everybody would have a copy of it to come to  
24 hearing.

25          So it is not uncommon for additional information

1 to be asked for to clarify things, and to be docketed,  
2 even after testimony. But when it came to us relying on  
3 an exhibit, those were all provided on that day, very much  
4 like the reports on the CURE CD or exhibits on the CURE CD  
5 that I -- I haven't even looked at them yet.

6           So this idea that every piece of information that  
7 comes in requires the intervenor some sort of right to be  
8 able to evaluate it, I think is misplaced. And we don't  
9 believe that -- now, I would agree with you, if I had come  
10 in yesterday and changed where a solar field was going to  
11 be, that is a project change. The project change that we  
12 did was the movement of the gen-tie line. We all talked  
13 about it, and we submitted that in that survey information  
14 as soon as we got it.

15           MS. KLEBANER: May I please respond to that?

16           HEARING OFFICER RENAUD: Yes, please.

17           MS. KLEBANER: Thank you.

18           CURE submitted data requests in this proceeding  
19 before the discovery cutoff. The applicant indicated that  
20 they are unable to respond to CURE's request, but also  
21 allowed that some of our requests would be answered in the  
22 revised technical report to be submitted on May 28th.  
23 That report was never served on CURE. Instead, the  
24 applicant has peppered the docket in the last minute on  
25 the eve of trial with following documents:

1           On June 11th, the applicant submitted biological  
2 resources spring survey protocols for desert tortoise,  
3 western burrowing owl, botanical spring survey protocols,  
4 jurisdictional water delineations and Golden Eagle survey  
5 protocols.

6           Having reviewed the applicant's exhibit list, I  
7 see that other pertinent documents were submitted on  
8 Monday the 14th. These include the Colorado River  
9 substation biological resources survey results and impact  
10 calculations, biological resources 2010 survey data.

11           As well as information regarding the project  
12 utility corridors. I don't if that's about bio, but it  
13 seems to be about the project description.

14           Yesterday, at 3 p.m., the applicant submitted  
15 Golden Eagle survey results information on the gen-tie  
16 application near Blythe. In addition, yesterday the  
17 applicant submitted, as I -- the report -- the revised  
18 biological technical report. That was supposed to have  
19 been submitted on the 28th of May.

20           I assume those documents were too large to serve,  
21 because I haven't yet seen them. They're probably on this  
22 CD that was given to me today.

23           Because the applicant has chosen to submit so  
24 much significant new information which we haven't  
25 reviewed, this issue is simply not ready for evidentiary

1 hearing.

2 HEARING OFFICER RENAUD: First of all --

3 MR. GALATI: I need to respond to one thing, if I  
4 can.

5 HEARING OFFICER RENAUD: Let me ask a question  
6 first. The first part of your -- what you listed there  
7 was the protocols. I looked at that document after I saw  
8 your statement, and it seemed to me that that -- you would  
9 not be able to call that the results of the study. That  
10 is really a statement of how a study was performed, the  
11 methodology.

12 MS. KLEBANER: That is correct, but that  
13 information is highly relevant to a biologist, who would  
14 evaluate the adequacy of the survey endeavor.

15 HEARING OFFICER RENAUD: All right. Mr. Galati,  
16 you wanted to respond.

17 MR. GALATI: Remember that CURE filed data  
18 requests three days before, okay? So I want to put this  
19 all in perspective.

20 HEARING OFFICER RENAUD: We know they filed data  
21 requests three days before the cutoff.

22 MR. GALATI: And we objected.

23 HEARING OFFICER RENAUD: And you objected, and  
24 agreed to respond to the 30, 35 something like that.

25 MR. GALATI: And what we --

1           HEARING OFFICER RENAUD: And have you responded  
2 to those?

3           MR. GALATI: Yes. And what we said in our  
4 objection was that all of the information you select that  
5 would be in the biological resources technical report,  
6 okay, we said -- we thought we would file that in May and  
7 early June. We were unable to complete that document  
8 then. So what we did for the responses to CURE, and if  
9 the council would actually open up and read the responses,  
10 she would see that we actually pulled out everything out  
11 of the biological resources technical report that would be  
12 relevant to her questions, and actually added them to the  
13 data responses.

14           So she had every everything that she wanted on  
15 December -- excuse me, on Monday of this week. CURE  
16 elected to file a data request three days before the close  
17 of discovery, when we knew when we were going, and now is  
18 screaming that the information that's in that, which  
19 allows them to prepare, is now somehow -- they need more  
20 time to review it.

21           So the idea -- it's very easy to read a list of  
22 information that is in the docket, but you need to open up  
23 that information to understand what's we're talking about.  
24 And what we're talking about here is that CURE's data  
25 responses, when we could have object to everyone, because

1 it was so late, and it interfered with our -- but we  
2 didn't do that. We sought to find those answers that we  
3 could. And we gave them to them in an appropriate way and  
4 in a way that this client actually bent over backwards to  
5 accommodate them.

6           So I don't want to hear anymore about we need  
7 more delay, because this client has actually chosen to do  
8 that, and that's what they did. On Monday, she had  
9 everything responsive to her data request. If she was  
10 interested in that, she could have asked in March and in  
11 April, and earlier in May, but she chose not to.

12           So at some point in time, we need to cut this off  
13 and we need to get to evidentiary hearing and we have to  
14 stop the delay tactics that you see here. This is what  
15 this is. It is not about the environment. It is not  
16 about her concerns. It's a delay tactic and it has to  
17 stop.

18           HEARING OFFICER RENAUD: Well, without getting  
19 into motivations and so on, I mean, I can't say I -- the  
20 submittal of data requests on the 11th hour is not  
21 something new to us. We've seen this from CURE in many  
22 cases. They are nonetheless technically timely. So we'll  
23 leave that where it lays.

24           Let me hear from staff briefly about readiness.

25           SENIOR STAFF COUNSEL De CARLO: Staff is ready to

1 proceed. We do anticipate having a little bit of  
2 additional biological information in our Supplemental  
3 Staff Assessment just to address -- to incorporate some of  
4 the results from the late survey information, and to  
5 address a second access road that we're requiring as part  
6 of mitigation in the worker safety fire protection issue.  
7 We just wanted to make sure that we closed the loop on  
8 that and analyze any potential environmental impacts  
9 resulting from that. These aren't big issues in the  
10 supplement. They're just minor little tying things up.  
11 So we believe we're ready to proceed.

12 HEARING OFFICER RENAUD: Would it make sense then  
13 for staff to make a presentation on the 15th on biological  
14 resources and then supplement it at a future session, if  
15 necessary?

16 SENIOR STAFF COUNSEL De CARLO: Yes.

17 HEARING OFFICER RENAUD: All right. Well, that  
18 will be the order then. Let's be prepared to have a full  
19 presentation from the applicant, as full as possible from  
20 staff and from CURE. You'll all have the opportunity to  
21 cross examine and submit rebuttal or rebut, if you've  
22 already submitted your rebuttal evidence.

23 CURE, to the extent that new information comes  
24 out to which you feel you need to respond, let's address  
25 that as we come to it. Right now -- sitting up here right



1 now dealing with all of this information, kind of in the  
2 abstract is difficult to make a specific response to you.  
3 Let's see how it plays out and I think we can address it  
4 at that time.

5 MS. KLEBANER: We your permission, once we've had  
6 the opportunity to review the information that has been  
7 submitted this week, I'd like to submit a statement of how  
8 much time would be necessary to address those issues, and  
9 when we could file additional supplemental testimony on  
10 those issues.

11 HEARING OFFICER RENAUD: Well, obviously you can  
12 submit anything you want and we'll read it. But if it's  
13 to be useful to the Committee, it would need to state not  
14 just how much time, but why.

15 MS. KLEBANER: Sure, of course. Thank you.

16 HEARING OFFICER RENAUD: Okay. Specifically.

17 All right. So again, as with all topics, we are  
18 moving in the direction of putting in as much evidence as  
19 we can as early as possible. To the extent that it needs  
20 to be supplemented later, we'll do that, but let's do  
21 everything we can by the 15th.

22 Let me go to soil and water resources.

23 I don't see that CURE has got a concern here, but  
24 applicant and staff clearly do. Am I correct about that,  
25 CURE?

1 MS. KLEBANER: That's correct. We would be ready  
2 to proceed to hearing on that issue.

3 HEARING OFFICER RENAUD: Thank you. All right,  
4 Mr. Galati.

5 MR. GALATI: So we are ready to proceed as well.  
6 Everything is in our written testimony. No need to argue  
7 it here.

8 HEARING OFFICER RENAUD: Staff?

9 SENIOR STAFF COUNSEL De CARLO: Yep we're ready  
10 to proceed.

11 HEARING OFFICER RENAUD: Okay, that's good.

12 The Supplemental Staff Analysis. Staff is -- are  
13 you anticipating that we'll have anything new or earth  
14 shaking on this topic?

15 SENIOR STAFF COUNSEL De CARLO: No. No. Nothing  
16 new or earth shaking. We are intending -- the applicant  
17 had made some suggested modifications to our conditions of  
18 certification, some of which we're okay with, others we're  
19 not. We were intending in the supplement to just outline  
20 for the Committee in writing exactly what we would agree  
21 to change in those Conditions of Certification, if that  
22 would be helpful to the Committee, as well as perhaps  
23 responding to comments made in the applicant's testimony.  
24 We could do that orally at the hearing itself.  
25 We just thought it might be preferable to have it in

1 writing so the parties understand what our testimony will  
2 be.

3 HEARING OFFICER RENAUD: Well, let me ask a  
4 question of you. Applicant seems to be suggesting that  
5 the Committee handle the water issue the same way it's  
6 handled it in other Blythe area projects. Now, our  
7 decisions are not considered precedential or binding on  
8 the Commission. On the other hand, there is a certain  
9 appeal to that argument. I just wondered if you had any  
10 response to it?

11 SENIOR STAFF COUNSEL De CARLO: We will be  
12 prepared to address that assertion at evidentiary  
13 hearings. We believe that there are differences between  
14 this project and those two that warrant how staff has  
15 treated this project and the conditions that it is  
16 suggesting the Commission adopt.

17 HEARING OFFICER RENAUD: Okay. We'll look  
18 forward to hearing on that.

19 Thank you.

20 And now we arrive at cultural.

21 The Revised Staff Analysis has no cultural  
22 section. We understand that one is coming in the  
23 Supplemental Staff Analysis. The Staff Analysis from  
24 March does have a cultural section, and it's, you know --  
25 I mean, if you're looking for something you could call

1 substantial, whether or not it's evidence, just on the  
2 basis of thickness, you'd have to say it's substantial.  
3 And I'm curious as to why it's not present, even in part,  
4 in the revised?

5 SENIOR STAFF COUNSEL De CARLO: We have Beverly  
6 Bastian as our expert witness on this issue and she can --

7 HEARING OFFICER RENAUD: Thank you. The author  
8 of the lengthy, impressively, complete looking home of the  
9 cultural resources from the Staff Analysis.

10 MS. BASTIAN: Well, your question as to why it  
11 isn't in the RSA. Essentially, the problem was again  
12 resources of time to deal with projects besides the  
13 ones -- the Blythe one that I'm responsible for, and  
14 having to -- those having being -- needing be done sooner  
15 than the Blythe report was, and just not being able to get  
16 it all done.

17 HEARING OFFICER RENAUD: That section identified  
18 230 some odd cultural resource sites, I believe.

19 MS. BASTIAN: Right.

20 HEARING OFFICER RENAUD: But was inconclusive  
21 about how to deal with them --

22 MS. BASTIAN: Correct.

23 HEARING OFFICER RENAUD: -- to put it in a very  
24 simplistic fashion. Before that came out, there had been  
25 what appeared to be negotiations and an agreement, at

1 least by virtue of correspondence to use one of three  
2 approaches, and it was approach three, and it's discussed  
3 in that section. And it basically, again, very  
4 simplistically involved treating each of those resources  
5 as if they were significant, and then handling them  
6 through mitigation.

7           Sounds good to me. What happened?

8           MS. BASTIAN: Well, what happened was that the  
9 main mode of mitigation that we were proposing, if you may  
10 recall, was BLM's programmatic agreement, which is a  
11 rather different process than ours on the sole basis of  
12 our staff determinations, proposing very specific  
13 mitigation measures.

14           Theirs is a consultative process with timeframes  
15 attached to the stages of the development of it, involving  
16 the public, any and all interested parties, including  
17 applicant's, and in particular, Native Americans, because  
18 often -- and in these cases, very much so, pre-historic  
19 and possibly ethnic graphic resources are involved.

20           And the BLM after the publishing of our essay in  
21 drafting -- the joint document Draft Environmental Impact  
22 Statement found it unsatisfactory to their purposes for  
23 NEPA, which is the law under which they operate in these  
24 matters.

25           And the decision was taken to write separate

1 final documents. And once this happened, we were no  
2 longer able to use the prospect of a programmatic  
3 agreement as the mode of incorporating what we thought was  
4 appropriate in the way of mitigation measures, and instead  
5 had to go back and write conditions of certification.

6           So in the -- I guess we're something like now  
7 perhaps two months since the decision on BLM's part, a  
8 good part of that time has been spent by me developing  
9 mitigation measures that will apply not just to the Blythe  
10 project, but to the other two I-10 corridor projects,  
11 because we feel, particularly from the aspect of  
12 cumulative impacts, there's a shared responsibility and  
13 the need to have shared mitigation that serves both to  
14 better handle -- or to better generate information that's  
15 useful in cultural resources across a regional, sort of,  
16 perspective, instead of on a site-by-site one.

17           And we also think we'll be more efficient for the  
18 two -- I'm not sure whether to characterize it as two or  
19 three, eventual projects owners. So that, and the fact  
20 that I didn't have mitigation measures and I didn't have a  
21 cumulative analysis has been -- the big pieces that are  
22 missing that will be in the supplement and are, I think,  
23 very important for the Committee to have to proceed.

24           HEARING OFFICER RENAUD: Typically, in the  
25 culture resources section, you do recommend Conditions of

1 Certification. In this section, you didn't set them out  
2 in the usual format, but you did list -- you prefaced it  
3 by saying staff commonly recommends a set of standard  
4 measures, et cetera, and then you listed measures one  
5 through seven.

6 MS. BASTIAN: Right.

7 HEARING OFFICER RENAUD: And what was your  
8 thinking there on doing it that way, instead of the other  
9 way?

10 MS. BASTIAN: Those standard measures are  
11 essentially to deal with resources, generally  
12 archeological, that are discovered during construction.  
13 They set out the means of identifying them, evaluating  
14 them, and providing a treatment in a way that does not  
15 result in great delays in construction while these  
16 are -- these discovered and unexpected resources are dealt  
17 with.

18 Because there are 234 sites, as you mentioned, or  
19 resources that are known, and they require mitigation  
20 ahead of construction, and that was what was largely to be  
21 handle in the PA, the conditions that you're seeing there  
22 are basically one condition saying execute or implement  
23 the Programmatic Agreement for the mitigation for those  
24 known sites, but we would as well have recommendations for  
25 these non- -- the sites that would be discovered, because

1 they were not also subject to the assumption of  
2 eligibility. They would be found, an eligibility  
3 determination would be made, and then they would be  
4 treated in some fashion.

5 HEARING OFFICER RENAUD: Do you feel you could  
6 develop mitigation measures without the PA in this case?

7 MS. BASTIAN: I am having to do that.

8 HEARING OFFICER RENAUD: You're doing that.

9 MS. BASTIAN: Yes.

10 HEARING OFFICER RENAUD: Okay, all right. And I  
11 take it that's destined for the Supplemental?

12 MS. BASTIAN: It is indeed. And in contrast to  
13 what we have seen so far from other projects, similar  
14 large solar projects in the desert where the Programmatic  
15 Agreement is farther along, it's -- the ones provided for  
16 in there is not very specific. And we've been advised  
17 that for CEQA purposes, and now our separate document,  
18 these conditions have to be considerably more specific.  
19 And that's, again, why there are many resources. They're  
20 complex in nature. We're proposing, as I suggested,  
21 something across projects and across a region, unlike  
22 anything we've really handled before, and this is just  
23 taken a great deal of time and effort.

24 HEARING OFFICER RENAUD: Just anticipating the  
25 parties' needs for preparation on this topic, can you give



1 us a preview as to whether or not the Supplemental Staff  
2 Analysis cultural section will be vastly different from  
3 the existing one in the essay?

4 MS. BASTIAN: The primary differences will be --  
5 although you saw that enormous table in there that's  
6 something of a -- mainly to be descriptive of the  
7 resources. There will be sort of a grouping of these by  
8 site types. And there's some sense of the potential  
9 information value that they hold. And particular  
10 mitigation measures that will address the collection of  
11 the recovery of the data associated with these different  
12 site types.

13 And there will be, and it's well underway, the  
14 cumulative analysis, which was not in the previous  
15 document. And then rather more elaborate and detailed  
16 conditions to mitigate the impacts to these resources.

17 In particular, what we're calling cultural  
18 landscapes, one associated with World War II activities,  
19 across the region, and the other that we're referring to  
20 as prehistoric trails network cultural landscape, which is  
21 a concept that ties together sort of destinations and  
22 resource areas, and areas of religious significance with  
23 known and otherwise basically assumed trail network.

24 Both of these cultural landscapes have -- we've  
25 developed very elaborate programs of documentation and

1 assessment of the eligibility. While staff had assumed  
2 these were eligible, these programs will actually  
3 establish -- research these landscapes and establish  
4 whether they are or are not eligible. And then if they  
5 are, nominate them to the National Register.

6 And our proposal or our recommendation is to  
7 essentially have the project owners pay for this sort of  
8 regional approach to these two landscapes, on the basis of  
9 a dollar amount per acre that their project will either  
10 enclose or disturb.

11 And we'll pay into a fund that will be managed  
12 here at the Energy Commission. And staff would hire  
13 consultants through our existing contract with Aspen to  
14 conduct these studies.

15 HEARING OFFICER RENAUD: All right. Do you want  
16 to ask any questions?

17 Let me hear from -- first of all, let me hear  
18 from staff as far as the readiness to proceed. Do you  
19 think you'd be able to put on anything on cultural on July  
20 15th?

21 SENIOR STAFF COUNSEL De CARLO: Oh, yes. We  
22 definitely will be prepared to present our oral testimony,  
23 a summary of our written testimony, and be available for  
24 cross.

25 HEARING OFFICER RENAUD: Based on the

1 supplemental?

2 SENIOR STAFF COUNSEL De CARLO: Yes.

3 And it appears from what Beverly was saying that  
4 we've pretty much characterized the issue in the Staff  
5 Assessment. And the RSA or the supplement is mainly  
6 refining the Conditions of Certification in light of the  
7 lack of being able to rely on the Programmatic Agreement,  
8 and in doing that, differentiating the categories of  
9 resources involved, which we hadn't done previously.

10 So I don't know that this is a major change in,  
11 at least the -- determining the environment that we're --  
12 that the project is potentially impacting. We agree, it's  
13 new information that the intervenor and the applicant will  
14 need to take in. But I don't know that it's a huge  
15 drastic change that they'd be unable to do so within a  
16 week of our testimony.

17 HEARING OFFICER RENAUD: Let's hear from Mr.  
18 Galati.

19 MR. GALATI: I got served today with Genesis's,  
20 because I'm counsel on that. I got served today with  
21 Genesis cultural resource section has been docketed.

22 So the Revised Staff Assessment in Genesis, which  
23 came out on the 11th was missing Cultural Resources. And  
24 now that's been filled.

25 And so if staff could move up the date, relying a

1 lot on the mitigation measures identified in Genesis, even  
2 if they need to be tweaked at the hearing, we would love  
3 them to be able to do that in the next week or two.

4           And then, as I proposed in our prehearing  
5 conference, we could then -- so it doesn't -- I don't  
6 think everything has to be rolled into the July 7th, so  
7 that the latest date for everything.

8           So if it came in piecemeal, this is a large  
9 section, it would give more than enough time for the  
10 intervenor and the applicant to file testimony on it, and  
11 get to hearing in time. So what I would propose is if  
12 staff could move that date up and come out with  
13 cultural -- I'd prefer them to also come out the socio, so  
14 that we could each file testimony.

15           And if they could come out by the 30th, we could  
16 file testimony by July 7th and that would give -- we would  
17 waive written rebuttal, and we could do rebuttal on those  
18 two areas at the hearing. We could conclude cultural and  
19 socio at the hearing without having to go into a future  
20 hearing.

21           I would remind you that that would have been more  
22 time to review cultural, if it actually came out on the  
23 4th before we filed the testimony. We only had one week.  
24 And so now I'm asking and giving the intervenor and myself  
25 10 days.

1           Granted, there's a holiday there, but I worked  
2 all weekend the last four weekends reviewing things. So I  
3 think that would work, but we would need staff to commit  
4 to get the cultural section done. They were able to do it  
5 in Genesis. Even if there's not a Cadillac version, we  
6 can all go and fix it at evidentiary hearing. But to wait  
7 till the 7th, I think, is extremely problematic.

8           And you saw what CURE is going to say and what  
9 they have said about how much time they need after that  
10 document. So if staff could hurry those two sections up,  
11 I think we would have clean-up items to do, as opposed to  
12 all new hearings to conduct.

13           HEARING OFFICER RENAUD: I know staff is used to  
14 generating enormous reports and putting it all out in one  
15 big clump. Since this is supplementation, I really think,  
16 to the extent you can do it, not just in this topic, but  
17 any topic, submit a supplemental any topic, the earlier  
18 the better. Just don't wait until it's all finished  
19 baking before you issue it on July 7th.

20           SENIOR STAFF COUNSEL De CARLO: Right. Right.  
21 Yeah, we had -- because we were having just one  
22 supplement, we thought it might be easier to roll  
23 everything in. But I agree that it's in probably  
24 everyone's best interest if we can get individual sections  
25 out sooner.

1 I don't know what our socio section looks like. I  
2 haven't seen it yet. I don't know at what stage it is,  
3 but there might be a chance that we could get that out  
4 sooner than the others.

5 And then I think Beverly's time schedules is  
6 pretty constrained right now. I don't know that she can  
7 get the cultural section out any earlier.

8 MS. BASTIAN: I can't make a promise, but I've  
9 been working lots of weekends too, and I will see what I  
10 can do.

11 HEARING OFFICER RENAUD: Okay. Now, we'll hear  
12 from CURE. I know this sounds like, again, we may have a  
13 situation where a whole lot of new information come out,  
14 and we don't -- we only have a few days before being  
15 required to go on the stand. Again, I indicated before,  
16 you know, we aren't going to let anything unfair happen,  
17 but let me hear from you.

18 MS. KLEBANER: I appreciate that. I just wanted  
19 to illustrate the state of affairs at this stage. CURE  
20 has -- with regard to cultural resources issues, CURE is  
21 allowed access to the Application for Certification, a  
22 fraction of applicant's responses to staff's data  
23 requests.

24 The last majority of the information that the  
25 applicant has docketed regarding this issue is

1 confidential. We have not yet seen staff -- the staff  
2 report. Although a staff report was issued, technically,  
3 in March, it addresses the legal issues, the legal  
4 framework of the issues. It contains a table of  
5 resources -- naming resources that could potentially be  
6 affected, but it does not contain an Impact Analysis, nor  
7 does it contain mitigation measures.

8           In sum, CURE is significantly constrained in the  
9 amount of analysis CURE can do at this time, based on the  
10 information that has been available -- been made available  
11 up until now.

12           Therefore, once the Supplemental Staff Assessment  
13 has been issued that contains enough of staff's  
14 analysis -- or a complete Staff Analysis, excuse me, CURE  
15 would require a lot more than seven days to review that  
16 information. We would require 30 days to review that  
17 information, prepare testimony, and prepare for a hearing.

18           HEARING OFFICER RENAUD: Well, I'm curious about  
19 the question of whether or not the Staff Analysis has any  
20 Impact Analysis. I mean, maybe it wouldn't -- call it  
21 maybe just terminology here. There's an assumption of  
22 impact. Would you, Ms. Bastian, say there's analysis?

23           MS. BASTIAN: I have, at this point, not revised  
24 that section substantially. I think we're still pretty  
25 much assuming the impact of across the, what we could

1 call, the footprint of the project and along its linear  
2 facility to be the total destruction of those river  
3 sources that are located in those areas.

4 HEARING OFFICER RENAUD: And as to CURE, is that  
5 satisfactory, knowing that there's an assumption of impact  
6 and here are the sites -- here are the resources?

7 MS. KLEBANER: The assumption of impact is  
8 helpful, but mitigation is equally important here.

9 HEARING OFFICER RENAUD: Yes.

10 MS. KLEBANER: And there's going to be, I would  
11 assume, a lot of new information on that topic.

12 HEARING OFFICER RENAUD: All right.

13 Mr. Galati.

14 MR. GALATI: I would point out that that was  
15 the -- actually, my proposal gives them more time than  
16 they had under the original -- if on June 4th, the Staff  
17 Assessment had been complete on cultural resources, they  
18 would have filed opening testimony on the 11th. So they  
19 would have had seven days to site --

20 HEARING OFFICER RENAUD: By them, you mean CURE,  
21 just for record?

22 MR. GALATI: Yes. Just like the Applicant had  
23 seven days to review that information. And obviously,  
24 staff actually did a good job of characterizing the  
25 resources and putting them and just describing what the



1 resources are, in the first Staff Assessment.

2           And so I think that you basically are going to  
3 look at the mitigation measures and you're going to  
4 determine do I think these work, or do I think that  
5 mitigation should be done a different way, like avoidance  
6 or I want the treatment plant to look like this? That's  
7 really what we're going to be discussing.

8           And I look forward to the Committee's -- siting  
9 committee's ruling on this. I think we're going to have  
10 this continued debate on cultural resources, whether or  
11 not the background confidential information is necessary  
12 for CURE to participate.

13           I'd like to reiterate again for the record in  
14 this proceeding that I think it is not. And I'd like you  
15 to look at the briefs on that point.

16           HEARING OFFICER RENAUD: It's being looked at.  
17 That's not this hearing. That's a whole other date.

18           MR. GALATI: Correct. So I think that, as long  
19 as CURE has seven days or more, and my proposal would be  
20 10, to look at the cultural resources staff report, and  
21 file testimony, that they should participate in hearings  
22 and we should go and we should conclude hearing on the  
23 15th and 16th for every area that we possibly can.

24           And if the report was completed on the 4th, we  
25 could do that. I'm saying if staff could take the

1 mitigation measures from Genesis, tweak them how they  
2 don't work, where they don't work, maybe we can have that  
3 by the 30th. And if they commit to that, we wouldn't need  
4 an extension of the 14 day timeline, and it would allow  
5 the parties enough. So I would ask for that. I think  
6 that's more than enough time.

7 HEARING OFFICER RENAUD: CURE, it looks like to  
8 me like you did submit opening testimony in this area.

9 MS. KLEBANER: We did not. We submitted several  
10 exhibits, information that had been docketed in this  
11 proceeding, and two documents --

12 HEARING OFFICER RENAUD: What's the Laurain  
13 declaration?

14 MS. KLEBANER: Janet Laurain is a paralegal at  
15 our office. She received the documents.

16 HEARING OFFICER RENAUD: Oh, okay. Sorry about  
17 that.

18 MS. KLEBANER: Yes.

19 HEARING OFFICER RENAUD: All right, okay.

20 And why didn't you submit opening testimony?

21 MS. KLEBANER: We --

22 HEARING OFFICER RENAUD: You chose not too?

23 MS. KLEBANER: We didn't -- we chose not to do  
24 it, because we didn't have the underlying datum, which  
25 substantial evidence could be based for our expert to do

1 the analysis.

2 HEARING OFFICER RENAUD: Is CURE still  
3 anticipating trying to submit opening testimony on  
4 cultural in this matter?

5 MS. KLEBANER: We want the opportunity to  
6 evaluate the information that can be provided, and we  
7 would like an opportunity to submit testimony and offer a  
8 witness.

9 HEARING OFFICER RENAUD: You know, what I --  
10 since we don't know what that might say or be, I'm  
11 wondering if this might be an opportunity for some sort of  
12 an offer of proof hearing within the hearing, in which you  
13 could indicate to us with some specificity what that  
14 opening testimony might look like.

15 And then before you go to a lot of trouble, the  
16 Committee could make a determination of whether or not  
17 that looks like it would be of sufficient weight to have a  
18 bearing. I mean, what do you think about that, something  
19 along the lines of that, because I am honestly wondering  
20 to what extent CURE would have original or be able to  
21 offer original opening testimony on cultural resources?

22 MS. KLEBANER: One element that could be included  
23 that the Committee might find useful are reasonable  
24 alternatives to proposed mitigation measures.

25 HEARING OFFICER RENAUD: Mitigation, I agree

1 that's something that can always -- is good to weigh in  
2 on. And in that sense, since that ultimately affects how  
3 the resources are handled, that's very important.

4 MS. KLEBANER: Of course, we could submit more,  
5 if we were allowed more access to the underlying data.

6 HEARING OFFICER RENAUD: Well, I guess there's  
7 two thresholds to cross. One is the ruling from the  
8 Committee on the other issue. And the second is to see  
9 what the supplemental looks like.

10 It does sound like the other topics -- we need  
11 not leave this topic out of the July 15th proceedings. I  
12 would ask that the parties be prepared to put on  
13 everything they can. We'll address whatever gaps there  
14 may be at that time. To the extent that CURE feels it  
15 needs more time based upon what comes out between now and  
16 then, we'll address that then as well. Anybody wish to  
17 speak further on cultural?

18 SENIOR STAFF COUNSEL De CARLO: In terms of  
19 relying on the Genesis conditions of certification, I've  
20 just been informed by Ms. Bastian that, in fact, staff  
21 does intend to adopt the first two conditions in Genesis  
22 for Blythe. So at least that gives the applicant a heads  
23 up of our initial Conditions of Certification regarding  
24 that subject area, which I think is the landscape -- the  
25 cumulative impact to the landscape -- cultural landscape.

1           HEARING OFFICER RENAUD:   Okay, good.   Anything  
2 else on cultural?

3           Mr. Galati.

4           MR. GALATI:   On the -- maybe I could ask staff if  
5 they could give us a heads up on the conditions about how  
6 you handle things you don't anticipate but discover.   I'm  
7 assuming they would be very similar as well, correct?

8           MS. BASTIAN:   They would be the typical  
9 conditions that we have -- what I'll call our standard  
10 conditions, they will be virtually the same.   Different  
11 numbers, but virtually the same.

12          MR. GALATI:   So we could look at CURE, and the  
13 applicant could look to the Genesis Project as well and  
14 those conditions typically about how you monitor, who the  
15 kind of qualifications people are, how they report to you,  
16 under what circumstances, preparation of a CRMP.   Those  
17 kinds of things are all going to be very similar, do you  
18 think, between the projects?   I may have characterized  
19 them wrong, but are they similar, do you think, between  
20 the projects?

21          MS. BASTIAN:   They're similar.   They're not  
22 identical, because our standard conditions ended up  
23 interwoven with the requirements of different kinds of  
24 monitoring at Genesis that won't be at Blythe.   So it  
25 won't be -- it won't be identical, by any means, but it's

1 a good indication.

2 MR. GALATI: Okay. That's very, very helpful,  
3 because I think that we can start looking at those and  
4 start preparing our testimony right now based on those,  
5 about what we might -- what we think about that approach.  
6 And then hopefully it will be easier when it does come out  
7 for us to be able to respond quickly.

8 MS. KLEBANER: May I also ask a question?

9 HEARING OFFICER RENAUD: Please.

10 MS. KLEBANER: To what degree does a project  
11 layout affect your proposed conditions, as well as the  
12 particular resources of the site?

13 MS. BASTIAN: The layout, do you mean the  
14 configuration of it?

15 MS. KLEBANER: The configuration of it, right.

16 MS. BASTIAN: In the initial -- in the first  
17 study that we did, we were working under the NEPA rubric  
18 requiring of an equal evaluation of some alternatives,  
19 which include the reconfigured sites. And that was -- and  
20 once we parted ways with BLM, we're not looking at those  
21 anymore. And indeed, the data that we attempted to get  
22 that would have been equivalent and would have culminated  
23 in an analysis of that sort was cutoff from us as well, as  
24 everybody else, when BLM brought up the issue of what they  
25 considered to be inappropriate dissemination of that

1 information.

2 MS. KLEBANER: And as to comparing the two  
3 different plans, Genesis and Blythe, would the fact that  
4 they're two different plans, would that figure prominently  
5 in your Conditions of Certification?

6 MS. BASTIAN: No. No. In fact, that analysis of  
7 comparing projects with respect to their layout is not --  
8 it's just not something that we did.

9 The only comparison, if you can consider the fact  
10 that we did across projects was the relative size and the  
11 amount of disturbance associated as we did this cumulative  
12 impact analysis.

13 MS. KLEBANER: Thank you.

14 HEARING OFFICER RENAUD: All right. Anything  
15 further on cultural?

16 Good. All right.

17 It looks to me like that's all the topics. Does  
18 anybody have one I left out, or anything else that we want  
19 to bring up?

20 SENIOR STAFF COUNSEL De CARLO: I had a question  
21 with regard to the worker safety, waste management  
22 combined issue that CURE had raised. Now, our expert  
23 handles both, so I don't know if you want to take waste  
24 management by declaration and solely address CURE's  
25 comments in the worker safety realm, or if we'll have oral

1 testimony in both of those areas.

2 HEARING OFFICER RENAUD: Well, correct me if I'm  
3 wrong, but I've always thought of waste management as  
4 dealing with the wastes products of the project. Does  
5 anybody want to differ with that, because I'm certainly --  
6 I'm sure a lot of you -- most of you have much more  
7 knowledge about this than I do.

8 MS. KLEBANER: The problem is that it's really a  
9 question of where the relevant Conditions of Certification  
10 are located in the Revised Staff Assessment. Our expert's  
11 testimony pertains to worker safety issues. However, the  
12 relevant condition -- the mitigation measures proposed are  
13 contained in the waste management section, hence the  
14 confusion.

15 MR. GALATI: Yeah, because there is a waste  
16 management issue as well. If you find, you know,  
17 unexploded ordinance or shell casings or fragments. They  
18 have to be disposed of properly. And so that's typically  
19 how -- that's where they've been showing up. And so I  
20 think that maybe you could hold the issue open. You could  
21 have them both at the same time, because I do think  
22 there's some cross-over.

23 How you might approach it to dispose of the  
24 property may be different than how you may approach it if  
25 you were worried about protecting the workers from



1 discovering it. And so --

2 HEARING OFFICER RENAUD: That's sounds like a  
3 good idea to me. It's just to -- not be too concerned  
4 about the boundaries, to the extent that we're talking  
5 about a safety issue and it will wind up in the decision  
6 in worker safety. And to the extent it's a disposal  
7 issue, it will wind up in the decision in waste  
8 management.

9 MS. KLEBANER: That's great.

10 HEARING OFFICER RENAUD: Good. Anything else?

11 MS. KLEBANER: I would like to raise the issue of  
12 reopening discovery with regard to biological data that  
13 has been recently submitted. This is something that we  
14 requested in our prehearing conference statement. It is  
15 our position that there is good causes to have limited  
16 discovery reopened, limited to data that has been  
17 submitted after opening testimony were do, with the  
18 exclusion of rebuttal testimony, of course.

19 HEARING OFFICER RENAUD: Well, I saw that  
20 request, but it's kind of vague, honestly. I mean, can  
21 you give me any specifics as to what's come up that  
22 prompts a need to reopen, in your view?

23 MS. KLEBANER: Well, I could reread the list that  
24 I read earlier. I don't think that's a good use of time  
25 at this point, but --

1           HEARING OFFICER RENAUD: Yeah. No, if that's  
2 what you're referring to, I heard that.

3           MS. KLEBANER: It would be limited to those  
4 issues. I mean, that information that was submitted by  
5 the applicant to the docket following close of -- well,  
6 following close of opening and rebuttal testimony.

7           MR. GALATI: Normally, what would happen is there  
8 would be a motion filed with a very specific reason, and  
9 then I could respond. So I would be more than happy if  
10 Ms. Klebaner would like to put in writing all the things  
11 that she would like us to provide to her. And I will  
12 certainly endeavor to provide to her information that has  
13 not already been provided in some other form. And then  
14 maybe there would be no need for the motion or she could  
15 make a motion and then I could argue, in my response to  
16 the motion, exactly how the information has already been  
17 provided to CURE. I'm not ready to do that, at this  
18 stage.

19           HEARING OFFICER RENAUD: Yeah, I think the issue  
20 of reopening discovery after the cutoff is a serious one,  
21 and it's not something we can just sort of deal with  
22 conversationally up here. It would need to be in the form  
23 of a motion. If you care to submit one, that's your  
24 privilege, and please do so.

25           I think Mr. Galati is sincere in his interest in

1 trying to respond to whatever you feel you need. And if  
2 you did it by a motion or you did it by a letter to Mr.  
3 Galati without involving the Committee, you might be able  
4 to work this out.

5 So we will not be able to respond to your request  
6 today, but if you want to bring it before us in a more  
7 formal matter so the parties have an opportunity to brief  
8 it and respond, please do so.

9 MS. KLEBANER: Understood. The vagueness of my  
10 request was mainly due to the question of whether you'd be  
11 willing to entertain such a motion at this time. I  
12 understand that you would.

13 HEARING OFFICER RENAUD: Any motion you send in,  
14 we'll look at, you know, because we'll entertain it.

15 MS. KLEBANER: Thank you.

16 HEARING OFFICER RENAUD: That's not a commentary  
17 on how we view it. It's just that we would look at it.

18 Okay, anything else anybody would like to bring  
19 up?

20 MR. GALATI: Yes. I would like to address,  
21 because I know as soon as we walk out of this room, this  
22 phone, which is Alice's, is going to ring. And she's  
23 going to have to tell her boss what happened to our  
24 schedule today.

25 So I would like you to help me keep the schedule.

1 And so I would ask you to adopt an order ordering staff to  
2 prepare culture and socio by the 30th and requiring  
3 applicant and intervenor to file by the 7th. And I know  
4 that nobody likes to do that, and staff is overworked, but  
5 I believe that they're close, because of what they just  
6 did in Genesis in an amazingly short period of time.

7 And if given the proper order, this project would  
8 go to a higher list on staff's approach of what they  
9 should be working now from a cultural perspective. I know  
10 the next -- the last thing that was on the staff's list or  
11 one of the things they were working on was the Palen  
12 project on the 18th, which is no longer on their radar  
13 screen.

14 I'd like to slip into that slot, get this RSA out  
15 on cultural resources, so that we don't have to have this  
16 same conversation on the 15th and 16th on how the parties  
17 weren't prepared, because there's an underlying theme.  
18 It's clear, but I'll say it. It's delay, delay, delay,  
19 because that's what we really are looking at.

20 So I would like to be able to say, you know, Mr.  
21 Caldwell, we don't yet know, but the Committee will be  
22 issuing an order telling you what happened to your  
23 schedule. And hopefully that order will show a path  
24 forward to keep it.

25 HEARING OFFICER RENAUD: Without issuing a formal

1 order or purporting to boss staff around, we had staff's  
2 representations on the record today. I think they are  
3 sincere. And I can tell you this much, that to the extent  
4 that those dates are not complied with, the Committee  
5 would be very interested in that. I would be prepared to  
6 go further than that, right. I think we're -- everybody  
7 is proceeding in good faith. No one is more interested in  
8 seeing these AFCs proceed as expeditiously as possible.  
9 We're already quite a bit beyond our 12-month process.

10           And so, you know, everybody is doing what they  
11 can. But we'll be looking for these things to come out as  
12 we've been led to understand. And if they're not, you  
13 know, we'd certainly appreciate knowing in advance that  
14 there's a problem that would certainly help. People can  
15 plan.

16           MR. GALATI: What I'm nervous is the commitment  
17 by staff is the 7th and we'll try for earlier. And if the  
18 cultural resources comes out on the 7th, I think that that  
19 might be difficult for us to conclude hearings on the 15th  
20 and 16th, which would mean we would then be asking you for  
21 another hearing, which that would completely blow, in my  
22 opinion, the schedule for the PMPD and the final decision  
23 date in this project.

24           And so the -- there would need -- if the cultural  
25 resource staff report came out on the 7th, and you found

1 that we needed to have an additional hearing, so that you  
2 could allow CURE and the applicant time to file testimony,  
3 I think that the earliest we could go to hearing again  
4 would be the week after or the week after that. And we're  
5 down to the real short strokes here where weeks matter.

6 So that's why I would, you know, ask you to  
7 strongly, if not order, strongly encourage staff to  
8 bifurcate, do the cultural resources and the socio by the  
9 30th, so we can ensure that on the 15th and 16th, we can  
10 finish those topic areas.

11 HEARING OFFICER RENAUD: Well, we certainly do  
12 encourage the issuance of sections as they become  
13 available.

14 SENIOR STAFF COUNSEL De CARLO: Yes. Staff --

15 HEARING OFFICER RENAUD: It doesn't have to be  
16 all in one clump.

17 SENIOR STAFF COUNSEL De CARLO: Yeah, staff is  
18 definitely committed to issuing the sections as they come  
19 in individually, and not waiting to roll them all into  
20 one. And we'll endeavor to get those out as soon as  
21 possible.

22 Unfortunately, I can't commit to anything in  
23 advance of July 7th. I don't know what staff's resources  
24 are right now. They're spread thin. I know Beverly  
25 worked very hard on the Genesis Project and now she's

1 having to transition to Blythe.

2           So I don't know how much sooner than July 7th  
3 she'd be able to get that out. I will talk to management  
4 and see if there's a way that we could perhaps speed  
5 things up by devoting more staff resources to these  
6 sections. I don't know if that's possible.

7           HEARING OFFICER RENAUD: We are -- the Committee  
8 is anticipating -- hoping not to need, but anticipating  
9 needing some sort of an additional evidentiary hearing  
10 session, whether it would be to tie up loose ends or to  
11 cover areas or sections. We're not sure or it may not  
12 even be necessary. But we are hoping to hold that  
13 as -- if needed, as soon as possible after the supplement  
14 comes out, allowing ample time and adequate time, fair  
15 time for people to prepare for that.

16           We haven't set a date for it obviously, but I  
17 think that that is something we're expecting to have to  
18 do. And we are making plans and preparing for that not to  
19 result in a delay in the issuance of the PMPD. And, at  
20 this point, I have to say that I don't think it will delay  
21 the PMPD.

22           MR. GALATI: Thank you. That's helpful.

23           HEARING OFFICER RENAUD: All right. Good.  
24 Anything else?

25           SENIOR STAFF COUNSEL De CARLO: Just in

1 general -- I just have some suggestions about paring  
2 technical areas that we have similar -- the same witness  
3 on, just if this committee wants to take under advisement.

4 Air quality and traffic and transportation, we  
5 have one witness in common, Will Walters. He did the  
6 plume analysis, and the air quality analysis. So it would  
7 be nice to have both of those held on the same day.

8 And then waste, worker safety, which we it seems  
9 we are going to do all at once, and hazardous materials  
10 management on the same day. And all of those -- well, the  
11 last three are very short ones.

12 HEARING OFFICER RENAUD: So waste worker safety  
13 and hazardous would all be the same witness?

14 SENIOR STAFF COUNSEL De CARLO: Yes.

15 HEARING OFFICER RENAUD: Okay. We'll certainly  
16 try to accommodate that.

17 SENIOR STAFF COUNSEL De CARLO: And it's not  
18 critical. If it works out, that would be great.

19 MR. GALATI: Yeah, I only have one constraint  
20 with a witness. It's one we can work around. Doug Moss,  
21 who is the pilot and did the over-flight. He is available  
22 by telephone on the 15th, but he'd be in person on the  
23 16th. So if we could have traffic and transportation --  
24 oh, we're not sure he's available by phone on the 15th, so  
25 I'd ask you, at this time, if we could have that occur on



1 the 16th, that would be great.

2 HEARING OFFICER RENAUD: All right. Any reason  
3 we couldn't do that, as far staff is concerned?

4 SENIOR STAFF COUNSEL De CARLO: No, I don't  
5 believe there's any staff constraints on either of those  
6 days.

7 HEARING OFFICER RENAUD: And, CURE, I don't think  
8 this --

9 MS. KLEBANER: We don't have any conflicts.

10 HEARING OFFICER RENAUD: All right, very good.

11 Let me ask people on the telephone, I don't  
12 really know who's, but do any of you wish to add anything  
13 to the proceedings here?

14 All right.

15 Anybody else?

16 Nothing, okay. The Committee will issue a  
17 hearing order, which will summarize what we've all said  
18 today. Set forth some scheduling and order of proceeding  
19 for the evidentiary hearing, taking into count again what  
20 you've all said here. And other than that, keep on with  
21 your efforts to resolve issues, narrow things and --  
22 Karen, did you want to say anything?

23 PRESIDING MEMBER DOUGLAS: I'd just like to thank  
24 the parties for their preparation coming into this. And  
25 we'll look forward to seeing all of you at the evidentiary

1 hearings.

2 We're adjourned.

3 HEARING OFFICER RENAUD: Thank you.

4 (Thereupon the prehearing conference in

5 the matter of Blythe Solar Power adjourned

6 at 4:04 p.m.)

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 CERTIFICATE OF REPORTER

2 I, JAMES F. PETERS, a Certified Shorthand  
3 Reporter of the State of California, and Registered  
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the  
6 foregoing California Energy Commission hearing was  
7 reported in shorthand by me, James F. Peters, a Certified  
8 Shorthand Reporter of the State of California;

9 That the said proceedings was taken before me, in  
10 shorthand writing, and was thereafter transcribed, under  
11 my direction, by computer-assisted transcription.

12 I further certify that I am not of counsel or  
13 attorney for any of the parties to said hearing nor in any  
14 way interested in the outcome of said hearing.

15 IN WITNESS WHEREOF, I have hereunto set my hand  
16 this 21st day of June, 2010.

17

18

19

20

21

22 JAMES F. PETERS, CSR, RPR

23 Certified Shorthand Reporter

24 License No. 10063

25